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Paper No. 6

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In re Application of :
Lee, et al. :
Application No. 10/010,494 :
Filed: November 12, 2001 :
Attorney Docket No. B-4374 619286-3 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed on October 15, 2002, to accord the above-identified application a filing date of November 12, 2001, rather than the presently accorded filing date of November 13, 2001, and to vacate the previous decision mailed July 19, 2002, on the subject petition.

The petition is **granted**.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded or will accord, a filing date based upon an incorrect entry by USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of November 12, 2001.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2001.

Telephone injuries should be directed to the undersigned at (703)305-0010.



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